

By: Lozano

H.B. No. 605

Substitute the following for H.B. No. 605:

By: Farias

C.S.H.B. No. 605

A BILL TO BE ENTITLED

AN ACT

relating to the authority of municipalities or counties to adopt regulations or take other actions relating to airport hazard areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 241.002, Local Government Code, is amended to read as follows:

Sec. 241.002. LEGISLATIVE FINDINGS. The legislature finds that:

(1) an airport hazard endangers the lives and property of users of the airport and of occupants of land in the vicinity of the airport;

(2) an airport hazard that is an obstruction reduces the size of the area available for the landing, taking off, and maneuvering of aircraft, tending to destroy or impair the utility of the airport and the public investment in the airport;

(3) an airport hazard that is an interference negatively impacts the visual, radar, radio, navigation, or other systems for tracking, acquiring data relating to, monitoring, or controlling aircraft, tending to destroy or impair the utility of the airport and the public investment in the airport;

(4) [~~3~~] the creation of an airport hazard is a public nuisance and an injury to the community served by the airport affected by the hazard;

(5) [~~4~~] it is necessary in the interest of the

1 public health, public safety, including flight safety, and general
2 welfare to prevent the creation of an airport hazard;

3 (6) [~~(5)~~] the creation of an airport hazard should be
4 prevented, to the extent legally possible, by the exercise of the
5 police power without compensation; and

6 (7) [~~(6)~~] the prevention of the creation of an airport
7 hazard and the elimination, the removal, the alteration, the
8 mitigation, or the marking and lighting of an airport hazard are
9 public purposes for which a political subdivision may raise and
10 spend public funds and acquire land, an air right or aviation
11 easement, or other interests in property [~~land~~].

12 SECTION 2. Sections 241.003(2) and (3), Local Government
13 Code, are amended to read as follows:

14 (2) "Airport hazard" means a structure or object of
15 natural growth that is more than 100 feet in height or any
16 electronic emission or visual effect that obstructs or limits, or
17 has the potential to obstruct or limit, the operation of aircraft
18 to, from, or in the vicinity of the airport, including anything
19 that:

20 (A) obstructs the air space required for the
21 taking off, landing, or maneuvering [~~and flight~~] of aircraft; or

22 (B) [~~that~~] interferes with visual, radar, radio,
23 navigation, or other systems for tracking, acquiring data relating
24 to, monitoring, or controlling aircraft.

25 (3) "Airport hazard area" means an area of land or
26 water located inside or outside airport boundaries on which an
27 airport hazard could exist.

1 SECTION 3. The heading to Section 241.013, Local Government
2 Code, is amended to read as follows:

3 Sec. 241.013. EXTRATERRITORIAL ZONING IN CERTAIN POLITICAL
4 SUBDIVISIONS [~~WITH POPULATION OF MORE THAN 45,000~~].

5 SECTION 4. Section 241.013, Local Government Code, is
6 amended by amending Subsection (a) and adding Subsections (a-1),
7 (a-2), (a-3), and (a-4) to read as follows:

8 (a) A political subdivision described by Subsection (a-2)
9 [~~with a population of more than 45,000~~] in which an airport used in
10 the interest of the public to the benefit of the political
11 subdivision is located may adopt, administer, and enforce:

12 (1) airport hazard area zoning regulations applicable
13 to an airport hazard area relating to the airport and located
14 outside the political subdivision; and

15 (2) airport compatible land use zoning regulations
16 applicable to a controlled compatible land use area relating to the
17 airport and located outside the political subdivision.

18 (a-1) For purposes of Subsection (a), an airport that is
19 located in the extraterritorial jurisdiction of a municipality
20 described by Subsection (a-2)(2) is located in the municipality.

21 (a-2) This section applies only to:

22 (1) a political subdivision that has a population of
23 more than 45,000; or

24 (2) a municipality located in a county that has a
25 population of more than 32,000 and less than 32,300 and that
26 includes wholly or partly within its boundaries or extraterritorial
27 jurisdiction an airport with a radar system owned and operated by

1 the federal government or a defense agency of the federal
2 government or the state.

3 (a-3) A municipality described by Subsection (a-2)(2) may
4 adopt, administer, or enforce an airport hazard area zoning
5 regulation under this section only in a county described by
6 Subsection (a-2)(2).

7 (a-4) If each airport with a radar system owned and operated
8 by the federal government or a defense agency of the federal
9 government or the state that is located wholly or partly within the
10 boundaries or extraterritorial jurisdiction of a municipality
11 described by Subsection (a-2)(2) converts to a satellite system,
12 this section no longer applies.

13 SECTION 5. Section 241.903(a), Local Government Code, is
14 amended to read as follows:

15 (a) A political subdivision may acquire from a person or
16 other political subdivision an air right, aviation easement, or
17 other estate or interest in property or in a nonconforming
18 structure or use if:

19 (1) the acquisition is necessary to accomplish the
20 purposes of this chapter;

21 (2) the property or nonconforming structure or use is
22 located within the political subdivision or located outside a
23 municipality described by Section 241.013(a-2)(2) and in an airport
24 hazard area subject to regulation by the municipality under Section
25 241.013, the political subdivision owns the airport, or the
26 political subdivision is served by the airport; and

27 (3)(A) the political subdivision desires to remove,

1 lower, or terminate the nonconforming structure or use;

2 (B) airport zoning regulations are not
3 sufficient to provide necessary approach protection because of
4 constitutional limitations; or

5 (C) the acquisition of a property right is more
6 advisable than an airport zoning regulation in providing necessary
7 approach protection.

8 SECTION 6. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2013.